

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JAMES EASLER,
MICHELLE STONE-EASLER, and
INSURANCE COMPANY OF
STATE OF PENNSYLVANIA,

Plaintiffs,

v.

Civil Action No. 1: 10-cv-11989 RGS

DELTA AIR LINES, INC.,
FREEDOM AIRLINES, INC.,
MESA GROUP, INC., and
COMAIR, INC.,

COMAIR, INC.'S FIRST AMENDED CROSS-CLAIM

1. Plaintiff in cross-claim Comair, Inc. (Comair) is an Ohio corporation with a principal place of business in Erlanger, Kentucky.
2. Defendant in cross-claim Freedom Airlines, Inc. (Freedom) is a Nevada corporation with a principal place of business in Phoenix, Arizona.
3. Defendant in cross-claim Mesa Group, Inc. (Mesa) is also a Nevada corporation with a principal place of business in Phoenix, Arizona.
4. Comair, Freedom, and Mesa are defendants in this action brought by the Insurance Company of Pennsylvania as subrogee of James H. Easler who, together with Michelle Stone-Easler, (collectively plaintiffs) intervened and filed an Amended Intervenor Complaint and Jury Claim.

COUNT I: CONTRIBUTION (FREEDOM AIRLINES, INC.)

5. Comair incorporates by reference the allegations of paragraphs one through four, inclusive, as if specifically set forth herein.

6. Freedom's agents, including but not limited to Edwin E. Vilzchez, were negligent when maintaining an aircraft used in Freedom's operation of certain Delta Connection flights which negligence was the proximate cause of the damages alleged by the plaintiffs.

7. Freedom's negligence, through the actions of its agents, was the cause of the damages alleged by the plaintiffs while Comair did not cause or contribute to those damages.

WEREFORE, defendant/cross-claimant Comair, Inc. demands contribution pursuant to G.L. c. 231B from Freedom Airlines, Inc. for any judgment in this action, together with interest and costs.

COUNT II: CONTRIBUTION (MESA AIR GROUP, INC.)

8. Comair incorporates by reference the allegations of paragraphs one through seven, inclusive, as if specifically set forth herein.

9. Mesa held an operating certificate issued by the Federal Aviation Administration and leased a certain aircraft used in operating Delta Connection flights and as a result of the obligations on such a certificate holder and leasee Mesa's agents maintained that aircraft.

10. In the process of maintaining that aircraft Mesa's agents were negligent which negligence was the proximate cause of the damages alleged by the plaintiffs.

11. Mesa's negligence, through the actions of its agents, was the cause of the damages alleged by the plaintiffs while Comair did not cause or contribute to those damages.

WEREFORE, defendant/cross-claimant Comair, Inc. demands contribution pursuant to G.L. c. 231B from Mesa Air Group, Inc. for any judgment in this action, together with interest and costs.

COUNT III: INDEMNIFICATION (FREEDOM AIRLINES, INC.)

12. Comair incorporates by reference the allegations of paragraphs one through eleven, inclusive, as if specifically set forth herein.

13. Comair did not cause or contribute to the damages alleged by the plaintiffs and Freedom owes Comair implied contractual and/or tort-based indemnification.

WEREFORE, defendant/cross-claimant Comair, Inc. demands indemnification from Freedom Airlines, Inc. for any judgment in this action, together with interest, attorney's fees, and costs.

COUNT III: INDEMNIFICATION (MESA GROUP, INC.)

14. Comair incorporates by reference the allegations of paragraphs one through thirteen, inclusive, as if specifically set forth herein.

15. Comair did not cause or contribute to the damages alleged by the plaintiffs and Mesa owes Comair implied contractual and/or tort-based indemnification.

WEREFORE, defendant/cross-claimant Comair, Inc. demands indemnification from Mesa Air Group, Inc. for any judgment in this action, together with interest, attorney's fees, and costs.

Respectfully submitted,
Comair, Inc.
By its attorneys,

/s/ Thomas R. Murphy
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